IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

L.P.A. No. 246 of 2007 (O.&M.)
Date of Decision: 20.12.2007

Central Bank of India.

..... Appellant through Shri A.P.Jagga, Advocate.

Versus

Ashok Kumar Aggarwal.

..... Respondent-Caveator through Shri N.S.Bawa, Advocate.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE

The present appeal under Clause X of the Letters Patent is directed against judgment dated 12.10.2007 vide which C.W.P.No.8983 of 1991 filed by the respondent was allowed by the learned Single Judge.

The appellant, which is a bank, suspended the respondent, an employee, as he was involved in some criminal case. The suspension order was issued in the year 1978.

Thereafter, for no apparent reason, the disciplinary proceedings against the respondent were not taken. The same were initiated in the year 1990 and the only explanation given for this belated foray in the

disciplinary proceedings by the appellant was that it had waited for the criminal proceedings to be over, which again is factually incorrect as the respondent was acquitted of the charges against him on 15.7.1983 against which an appeal was preferred by the State and that appeal itself was decided in the year 1991 belying the stance of the appellant.

There is absolutely no quarrel with the proposition that a person, who is facing criminal prosecution can be proceeded against departmentally as well. But, such like proceedings obviously have to be taken within a reasonable time against a delinquent official and not be left in a limbo for an extra-ordinary long period so as to rob the proceedings of their relevance and render them irrelevant to the misdemeanour of which the employee is accused of.

The learned counsel for the appellant relied upon a judgment of the Supreme Court reported as P.D.Agrawal Versus State Bank of India and others, (2006) 8 S.C.C. 776 to plead that mere delay cannot be made a basis for holding the proceedings to be bad in the eyes of law, but in the same very judgment, their Lordships observed in paragraphs 26 and 27 as under:-

> "26. In State of M.P. Vs. Bani Singh, 1990 Supp SCCC 738, whereupon Mr.Rao placed strong reliance, this Court opined that by reason of delay of 12 years in initiating the disciplinary proceedings, the delinquent officer could not defend himself properly. In that case there was no satisfactory explanation for such a long delay. There was also doubt as regards the involvement of the delinquent officer.

27. In State of Punjab Vs. Chaman Lal Goyal, (1995) 2 S.C.C. 570, however, this Court refused to set aside those disciplinary proceedings which had been initiated after a delay of 5-1/2 years. Distinguishing the decision of this Court in Bani Singh, it was stated: (SCC p.574, para 9)

> `9. Now remains the question of delay. There is undoubtedly a delay of five- and- a half years in serving the charges. The question is whether the said delay warranted the quashing of charges in this case. It is trite to say that such disciplinary proceeding must be conducted soon after the irregularities are committed or soon after discovering the irregularities. They cannot be initiated after lapse of considerable time. It would not be fair to the delinquent officer. Such delay also makes the task of proving the charges difficult and is thus not also in the interest of administration. Delayed initiation of proceedings is bound to give room for allegations of bias, mala fides and misuse of power. If the delay is too long and is unexplained, the court may well interfere and quash the charges. But how long a delay is too long always depends upon the facts of the given case. Moreover, if such delay is likely to cause prejudice to the delinquent officer in defending himself, the enquiry has to be interdicted. Whenever such a plea is raised, the

court has to weigh the factors appearing for and against the said plea and take a decision on the totality of circumstances. In other words, the court has to indulge in a process of balancing.'"

As noticed above, the Apex Court in State of Punjab Versus Chaman Lal Goyal , (1995) 2 S.C.C. 570, the Apex Court held that if the delay is too long and is unexplained, the court may well interfere and quash the charges, but how long a delay is too long always depends upon the facts of the given case.

We are of the considered opinion that the appellant, for no apparent reason, had kept the disciplinary proceedings in abeyance for an inordinate long period which can neither be wished away or ignored by the Courts as it has sufficiently prejudiced the rights of the respondent.

Consequently, we do not find any merit in the appeal, which is hereby dismissed.

(Vijender Jain)
Chief Justice

December 20,2007
"SCM"

(Mahesh Grover)
Judge